

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-206989

DATE: July 6, 1982

MATTER OF: Florida Ordnance Corporation

DIGEST:

Determination that interim sole-source award of contract for complex cylinder heads be made to the only current producer is not shown to be unreasonable where agency indicates that leadtime for production and testing by new producer is sufficiently lengthy to require interim supply from current producer in order to satisfy continuing program requirements until such time as delivery could commence under a competitive solicitation, and protester offers no evidence to the contrary.

Florida Ordnance Corporation (FOC) protests any contract award to Teledyne Continental Motors (TCM) for diesel cylinder heads by the United States Army Tank-Automotive Command, to satisfy continuing requirements under the AVDS-1790 series tank engine rebuild program at Anniston Army Depot. We find the protest without merit.

On January 28, 1982, the Army issued sole-source request for proposals (RFP) No. DAAE07-82-R-0046 to TCM for 9,448 cylinder heads to be delivered in quantities of 1,000 per month commencing in January 1983. FOC protested to our Office alleging that it could provide the cylinder heads at a substantial cost savings to the Government, but that the Army had refused to consider its unsolicited proposal.

The Army reviewed the method by which the cylinder head requirement was being solicited. The Army found that the cylinder head is a major and critical component of the AVDS-1790 series tank engine, that it had originally been developed by TCM, and that TCM was the sole producer of the

engine and the only previous supplier of the cylinder head. The Army also stated that the cylinder head is extremely complex in its manufacture, and that engineering analysis and production experience indicate that a minimum of 10 months' leadtime is necessary before deliveries of the item can begin, although a current producer might be able to shorten the leadtime. Because of stringent testing requirements, initial production testing would add an additional 2 months to the period before deliveries could reasonably be expected to commence from a source other than TCM. Moreover, in view of the probability of experiencing difficulties in the testing or initial series of production, the Army concluded that a realistic production leadtime for a new producer would be 15 months.

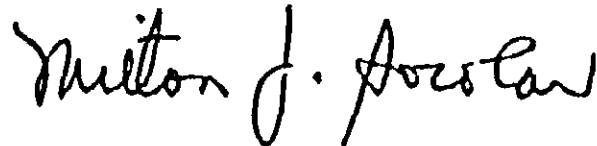
The Army decided that it would cancel the protested sole-source solicitation and prepare a competitive solicitation including suitable provisions for first article testing and commensurate delivery schedules for any source other than the current producer. In addition, the Army is considering whether a partial small business set-aside is possible. Accordingly, the sole-source RFP for 9,448 cylinder heads was canceled on June 3, 1982. However, on May 21, 1982, an interim sole-source award for 3,000 cylinder heads was made to TCM on the basis of the Army determination that, in view of the initial testing and production leadtimes necessary in the case of a new producer, only sole-source procurement of the initial deliveries from TCM could reasonably assure the Army of an uninterrupted supply of cylinder heads in early 1983.

Since the sole-source RFP has been canceled and the Army is endeavoring to solicit the requirement on a competitive basis, the protest is academic in that regard. To the extent that FOC is now protesting the interim sole-source award of 3,000 cylinder heads to TCM, we find that the Army had a reasonable basis for the award.

We have recognized that noncompetitive awards may be made where, as here, time is of the essence and only one known source can meet the Government's

needs within the required timeframe, Ampex Corporation, B-191132, June 16, 1978, 78-1 CPD 439; Hughes Aircraft Company, 53 Comp. Gen. 670 (1974), 74-1 CPD 137. FOC has not rebutted the Army's conclusion that only TCM can produce the cylinder heads in the required timeframe.

We deny the protest.

A handwritten signature in cursive script, reading "Milton J. Forster".

Acting Comptroller General
of the United States